

REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment is in response to the Office Action mailed July 24, 2008. Claims 1-3, 5-8, 11, 13-16 and 21 were rejected. The claims have been amended to address the concerns raised by the Examiner.

Claim Rejections - 35 U.S.C. § 102

Claims 1-3, 5-8 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Klein (5,405,159). The following are responses to this rejection.

Applicant Solves a Different Problem

The cited invention of Klein (US-5,405,159) solves a different problem than the present invention. Klein is specifically related to **suspension** seat posts and other bicycle suspension systems. More specifically, Klein is related to suspension seat posts. Suspension seat posts are designed to cushion the rider as they travel over bumps. While the initial seat position of a suspension seat post is adjustable, suspension seat posts are fundamentally designed to flex or move during operation. Klein's invention uses members that are flexible to achieve this motion/cushioning.

The applicant's invention is specifically related to rigid, non-flexible, seat **clamping** assemblies. This type of assembly is used to hold the seat in place where the rider wants it. Once adjusted, the entire assembly is rigid. None of the individual members are flexible, and there is no cushioning effect provided by the assembly. The term "rigid" has been added to each link description in the claims above for clarification of this point.

To further exemplify the fundamentally different problem solved by the invention of Klein, the Applicant would like to point out that the Applicant's invention can be used as the seat clamping structure at the top of the cited invention of Klein. This area is referred to as "a rigid saddle clamping area" (column 20, line 4), and is shown in figure 12 as 71CA in the specification of Klein's invention. As shown, and to anyone skilled in the art, Klein uses this small area labeled as 71CA to perform the user functions such as seat angle and position adjustment. None of the

rest of the elements of Klein's invention are used to perform these functions, they are used to provide suspension movement.

Incompatible Structures

The invention of Klein (US-5,405,159) uses springs (From Fig 12 of Klein's invention: 71, 71A, 71B, 72, 72A, 72B) and links to create an assembly that moves to absorb bumps as the rider travels over them. It also requires a rotary shock absorber (From Fig 12 of Klein's invention: 73) and an overboard stop (From Fig 12 of Klein's invention: 79) to control and dampen the motion of the seat and rider.

The claimed invention of the Applicant uses no springs, no rotary shock absorber, no overboard stop, nor does it teach or suggest anything like them to function. Klein makes no suggestion that these elements could or should be omitted.

Commercial Success/Commercial Acquiescence

The Applicants' invention is currently being licensed by contracts with two licensees, and the licensed seat posts can already be found on a significant percentage of bicycles sold in the market. These licensed products are being sold on bikes made by some of the largest bicycle companies in the world as well as in retail stores.

Licensees:

Race Face: www.raceface.com

MAXM Components: www.maxmcomponents.com

Partial list of bicycle manufacturers producing models with licensed product:

Giant Bicycles: <http://www.giant-bicycles.com>

Kona Bicycles: <http://www.konaworld.com>

Rocky Mountain Bikes: <http://www.bikes.com/>

Ironhorse Bikes: <http://www.ironhorsebikes.com/>

Yeti Cycles: <http://www.yeticycles.com/>

Titus Cycles: <http://www.titusti.com>

Claim Rejections - 35 U.S.C. § 103

Claims 13-16 were rejected under 35 U.S.C. § 103 as being unpatentable over Klein. The applicant argues that with an understanding of the arguments listed above, it is clear that the invention is patentable over Klein (US-5,405,159).

Klein does not show all of the structural features of the Applicant's invention. It would not have been obvious to anyone skilled in the art to take the flexible suspension seat post invented by Klein and create a fully rigid assembly that uses three rigid links to perform entirely different functions than the main structure of Klein.

CONCLUSION

In light of the above, Applicant respectfully submits that pending claims 1-3, 5-8, 11, 13-16, and 21 are now in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any impediment to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call Steve M. Perry at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

Fees in the amount of \$555.00 will be submitted electronically pursuant to 37 C.F.R. § 1.17(a)(3), for a three month extension of time pursuant to 37 C.F.R. § 1.136. No claims were added, therefore, no additional fee is due.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 26th day of January, 2009.

Respectfully submitted,

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